

**OCT 18 2005**

**CATHY A. CATTERSON, CLERK**  
U.S. COURT OF APPEALS

**NOT FOR PUBLICATION**

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JUAN RICARDO CRUZ-PONCE,

Defendant - Appellant.

No. 05-30027

D.C. No. CR-03-00246-FVS

MEMORANDUM<sup>\*</sup>

Appeal from the United States District Court  
for the Eastern District of Washington  
Fred L. Van Sickle, Chief Judge, Presiding

Submitted October 11, 2005<sup>\*\*</sup>

Before: NELSON, T.G., WARDLAW, and TALLMAN, Circuit Judges.

Juan Ricardo Cruz-Ponce appeals the 77-month sentence imposed following his conviction by guilty plea for illegal reentry after deportation, in violation of 8 U.S.C. § 1326. We have jurisdiction pursuant to 18 U.S.C. § 3742(a).

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<sup>\*</sup> This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Because appellant was sentenced under mandatory Sentencing Guidelines, we remand for further proceedings consistent with *United States v. Ameline*, 409 F.3d 1073 (9th Cir. 2005) (en banc). See *United States v. Moreno-Hernandez*, 419 F.3d 906, 916 (9th Cir. 2005) (extending *Ameline*'s limited remand procedure to cases involving non-constitutional error under *United States v. Booker*, 125 S. Ct. 738 (2005)).

**REMANDED.**